IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

Mat.Appeal.No. 315 of 2006()

OP.272/2004 of FAMILY COURT, THIRUVALLA
.....

APPELLANT/PETITIONER:

S.V.PARAMESWARAN PILLAI, 76 YEARS,
M/S.VELAYUDHAN PILLAI, SANTHIMATHIRAMPALLIL HOUSE,
EDAYARANMULA MURI, ARANKULA VILLAGE,
KOLENCHERRY TALUK, NOW RESIDING AT RAJEEVAN,
T.C.VII/1051/C, MARUTHAKUZHY, KANJIRAPPARA P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.K.SATHEESH KUMAR

RESPONDENT/RESPONDENT:

SANTHAKUMARI, 66 YEARS,
D/O.KARTHIAYANI AMMA, PATHIYAPPALLIL VEEDU,
EDAYARNMULA MURI, ARANMULA VILLAGE,
KOZHENCHERY TALUK.

BY SRI.V.G.ARUN

THIS MATRIMONIAL APPEAL HAVING COME UP FOR ADMISSION ON 21/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

MAT.APPEAL.NO.315 OF 2006 (E)

Dated this the 21st day of June, 2007

J U D G M E N T

KOSHY,J.

Appellant petitioner filed an application for a declaration that respondent is not his wife and declare that marriage certificate dated 18.10.1998 issued by N.S.S. Karayogam is null and void. It is the case of the appellant himself that he married the respondent's sister and she died in the year 1964. His children were young and therefore respondent was living in the family with him looking after the children. But according to him there was no legal marriage. According to the respondent, after the death there was a marriage and RW1 gave evidence to that effect that there was legal marriage with her after the death of her sister. RW2 is the son of the petitioner himself in the first marriage. He also deposed that petitioner and respondent were living as husband and wife and she was looking after the children as mother. No evidence was adduced

to show that N.S.S.Karayogam was inimical to him. N.S.S.Karayogam also gave the certificate of marriage. According to the petitioner he has married one Rajeswary Thankachi on 3.7.2003, that is, at the age of 73 under the Special Marriage Act and he wants to give the benefits to her. After detailed consideration of the evidence, Family Court found that there was legal marriage with the petitioner. It was also found that in the wedlock with the respondent's sister there were three children and elder child was only 7 years at the time of her death and he married Bhargavi Amma's sister who is the respondent and after the legal marriage as per the custom of the community a certificate was also issued by N.S.S. Karayogam. It is also the respondent's case that petitioner has taken her to Dubai and in the passport also it is stated that she is the wife of the petitioner. Even the petitioner's passport was not produced before this court to deny the allegations of the respondent. He has also made a partnership deed with the respondent to conduct the medical shop. In that deed also respondent is shown as the wife of the petitioner and it was signed by the petitioner appellant.

O.S.No.559/1998 was filed by the respondent seeking maintenance and suit was allowed by passing Ext.A1 ex parte order of maintenance to the respondent. In the box petitioner was unable to say anything about the same. We are of the opinion that Family Court has considered the matter in detail. Ext.A2 service records of the petitioner also shows that after the death of his first wife, respondent was shown as the wife of the petitioner in the declaration of the petitioner. Taking all these circumstances, Family Court dismissed the petition filed by the petitioner to declare the marriage certificate as null and void and refused to grant declaration prayed by him. We see no ground to interfere in the above and hence this appeal is dismissed.

J.B.KOSHY, JUDGE

K.P.BALACHANDRAN, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO. OF 2006 ()

J U D G M E N T

8th June, 2007